

REMARKS

Applicant has studied the Office Action dated April 5, 2005 and submits the following remarks. It is submitted that the application, as amended, is in condition for allowance. Claims 1-17 are pending. Reconsideration and further examination of the claims in view of the following remarks are respectfully requested.

In the Office Action, the Examiner:

- Rejected claims 1-17 under 35 U.S.C. § 103(a) as being unpatentable over *Hart, III et al* (Hart) (U.S. PG Pub No. 2001/0037465) in view of *Rowe et al* (Rowe) (U.S. PG Pub No. 2005/0060759).

Prosecution History

As reflected by the prosecution history in this case, a Request for Continued Examination (RCE) had been submitted in this case on August 10, 2004. Prior to submitting that RCE, the Applicant submitted a Response After Final Action on June 29, 2004, which contained an amendment and affidavit under 37 C.F.R. 1.131. As provided under 37 C.F.R. 1.114, M.P.E.P §706.07(h), and M.P.E.P §706.07(h)(V), the Response After Final Action filed on June 29, 2004 should have been entered in this case prior to further examination after the RCE. The Applicants response dated January 7, 2005, included a listing of the claims containing three amendments contained in that Response After Final Action. **The Applicant respectfully points out that those amendments do not appear to be reflected the remarks of the latest Office Action. In order to better position this case for appeal, the Applicant hereby requests further consideration of the pending claims, which considers all of the currently pending claim elements.**

Rejection under 35 U.S.C. §103(a) as Unpatentable over *Hart* in view of *Rowe*

As noted above, the Examiner rejected claims 1-17 under 35 U.S.C. § 103(a) as being

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unpatentable over Hart in view of Rowe. The Examiner recites 35 U.S.C. §103. The Statute expressly requires that obviousness or non-obviousness be determined for the claimed subject matter "as a whole," and the key to proper determination of the differences between the prior art and the present invention is giving full recognition to the invention "as a whole."

The Hart reference is directed to a method and system for data delivery and reproduction. The data is requested and purchased by a customer and delivered to that customer through several possible paths, including by electronic communications. The delivered data is encrypted prior to electronic communication and delivery. The data package can further include advertisements that are targeted to the customer based upon customer information data, such as purchase history data. Hart, Paragraph 52.

The Rowe reference is directed to systems and methods for distributing digital streaming media to remote nodes that are located over a large geographic area. The remote nodes have a multi-window screen display that simultaneously displays national and local programming content. Rowe, Abstract.

With regards to claims 1, 7, 13 and 17, the Applicant asserts that the prior art of reference fails to teach or suggestion the claimed aspects of the present invention that determine a user's payment clearing address during payment clearing by using an address verification system that is operated by a third party. The Applicant asserts that the teachings of Hart are limited to storing customer information, such as the customer's address, in a central storage facility that includes an accounting database, advertising database, title database, key server database and other functions. Hart, paragraph 53 and FIG. 3. Hart teaches the advantages of including customer information in such a central facility, including allowing the customer the freedom to access the system from any entry portal. *Id.* The Applicant asserts that Hart never mentions or teaches determining a user's address, or location, based upon "a user's

payment clearing address" that is determined during payment clearing, as is set forth in claims 1, 7, 13 and 17.

Further, Hart does not teach or suggest "an address verification system that is operated by a third party." The Applicant points out that the Examiner did not recite this aspect of claims 1, 7, 13 and 17 in identifying the teachings of the Hart and Rowe references. Office Action dated April 5, 2005, page 2-3, paragraph 4 and page 5, paragraph 10.

The Applicant also traverses the Examiner's assertion that the Rowe reference teaches "associating one or more pieces of advertisement with the content if the payment clearing address is in a predetermined geographic region." Office Action dated April 5, 2005, page 3, first paragraph. The cited portion of Rowe simply teaches inserting local commercials to "geographic and/or demographic regions, groups and/or individuals." Rowe, paragraph 0196. Rowe further does not teach or suggest using a "payment clearing address" of a user as is set forth by these claims.

The Applicant asserts that the cited references, taken either alone or in combination with one another, do not refer to, teach or suggest "determining, using an address verification system operated by a third party during payment clearing, a payment clearing address of the end user based upon the payment account" as is claimed for these amended claims. Therefore, independent claims 1, 7, 13 and 17 distinguish over the cited references for at least this reason. Dependent claims 2-6 depend from claim 1 and include all of the limitations thereof. Therefore dependent claims 2-6 distinguish over the cited references as well.

With respect to claims 3-6, the Applicant asserts that neither the Hart or the Rowe reference, taken either alone or in combination with one another, teaches that IP addresses are used by the aspects of the present invention claimed by these dependent claims to determine a geographical location of an end user device and that associating advertisement with the encrypted digital content is performed if that

geographic location of the end user device is in the predetermined geographic region. The Applicant respectfully asserts that the Examiner did not include this aspect of the presently claimed invention when describing the teachings of the prior art. Office Action dated April 5, 2005, page 3, paragraph 6 through page 5, paragraph 9.

With respect to claims 6, 8, 9, and 14, the Applicant further respectfully traverses the Examiner's assertion that the prior art, and in particular the cited portions of the Rowe reference, teach the following claimed limitations that are included in claims 6, 8, 9, and 14:

performing a network trace route to the end user device;
querying one or more IP addresses of hops, other than an IP address of the end user device, found in the network trace route in IP databases provided by third parties;
checking one or more country codes for the one or more IP addresses of the hops found in the network trace route; and
determining the geographical location of the end user using preassigned country allocations for class C IP addresses of the one or more IP addresses[.]

The Applicant respectfully asserts that the cited prior art does not teach "determining a geographical location of an end user device" by performing a network trace route to the end user device; querying one or more IP addresses of hops, other than an IP address of the end user device, found in the network trace route in IP databases provided by third parties; checking one or more country codes for the one or more IP addresses of the hops found in the network trace route; and determining the geographical location of the end user using preassigned country allocations for class C IP addresses of the one or more IP addresses" as is claimed by these amended claims.

With respect to claims 11 and 12, the Applicant further reasserts his remarks from

above that the aspects of the present invention that determine, using an address verification system operated by a third party during payment clearing are not taught, suggested or made obvious by the cited prior art. Further, the Applicant respectfully asserts that the Examiner did not identify this aspect of the presently claimed invention when describing the teachings of the prior art. Office Action dated April 5, 2005, page 7, paragraph 13 through page 8, paragraph 14. For these further reasons, dependent claims 11 and 12 distinguish over Hart, taken either alone or in combination with Rowe, and the rejection of these claims should be withdrawn.

For the foregoing reasons, independent claims 1, 7, 8, 9, 11-14, and 17 distinguish over Hart taken alone and/or in view of Rowe. Claims 2-6, 10-12, and 15-16 depend from independent claims 1, 9, and 14 respectively, and since dependent claims contain all the limitations of the independent claims, claims 2-6, 10-12, 15-16 distinguish over Hart taken alone and/or in view of Rowe, as well, and the Examiner's rejection under 35 U.S.C. §103 for these claims should be withdrawn.

Conclusions

The remaining cited references have been reviewed and are not believed to effect the patentability of the claims as amended.

In this Response, Applicant has amended certain claims. In light of the Office Action, Applicant believes these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicant respectfully submits that the claim amendments do not limit the range of any permissible equivalents.

Applicant acknowledges the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR § 1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment is limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicant and his attorneys.

Applicant respectfully submits that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

PLEASE CALL the undersigned if this would expedite the prosecution of this application.

Respectfully submitted,

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By:


Jeffrey Giunta
Registration No. 42,583
Attorney for Applicant

Customer No. 23334
FLEIT, KAIN, GIBBONS, GUTMAN,
BONGINI & BIANCO P.L.
One Boca Commerce Center, Suite 111
551 Northwest 77th Street
Boca Raton, FL 33487
Tel. (561) 989-9811
Fax (561) 989-9812